

1969 Senate Bill 193

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CHAPTER 204, LAWS OF 1969

AN ACT to amend 71.20 (5) (b) and (c) and (7) and 71.26; and to create 71.20 (4m) of the statutes, relating to direct remittance to department of revenue of taxes withheld by employers.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.20 (4m) of the statutes is created to read:

71.20 (4m) Upon not less than 6 months' notice to the depository bank designated under sub. (4), the secretary of revenue may direct that withheld taxes required to be reported and remitted by employers on and after a date specified be reported and remitted directly to the department of revenue. Every employer who deducts and withholds any amount under this section required to be reported and remitted on or after such date shall report and remit directly to the department. Amounts withheld shall be paid over a quarterly basis but if the amount deducted and withheld in any quarter exceeded \$300, the department may require, by written notice to the employer, that amounts deducted and withheld after the date indicated on such notice be paid over a monthly basis. Employers who are required to file reports and pay over withheld taxes on a monthly, quarterly

or other basis, shall file such reports and pay over such taxes on or before the last day of the month next succeeding the withholding period.

(a) Such payments shall be deemed paid as of the date on which they are required to be paid by this section for purposes of distribution to counties, cities, villages and towns under s. 71.14 if they are received by the department by the 5th day of the 2nd succeeding calendar month after the close of each calendar quarter.

(b) With each payment the employer shall include a withholding report on forms provided by the department. The department may, when satisfied that the revenues will be adequately safeguarded, permit an employer whose withheld taxes do not exceed \$50 per month to pay over withheld taxes and file withholding reports for longer than quarterly periods. Such permission may be revoked at any time. The department, if it deems it necessary in order to insure payment or to facilitate the collection by the state of the amount of taxes, may require reports or payments of the amount of withheld taxes for shorter than quarterly periods.

(c) On or before January 31 of each year every employer shall file with the department an annual withholding report on forms provided by the department showing the amount withheld from the wages paid each employee in the previous calendar year, the amount deposited or paid over in respect to each employe on wages paid in the previous calendar year and a reconciliation of the aggregate deposited or paid over in respect to each employe on wages paid in the previous calendar year with the aggregate of the amounts shown on deposit and withholding reports filed in respect of such withholding.

(d) Every employer who discontinues his business prior to the end of a calendar year shall, within 30 days of such discontinuance, pay over withheld taxes not previously deposited or paid over, and shall file a withholding report with the department covering the period from the beginning of the calendar year to the date of discontinuance.

(e) No employe shall have any right of action against his employer in regard to money deducted from his wages and paid over to the department in compliance or intended compliance with this section.

(f) If the secretary of revenue elects to discontinue use of the depository bank, reasonable notice of the change shall be communicated to employers subject to withholding.

SECTION 2. 71.20 (5) (b) and (c) and (7) of the statutes are amended to read:

71.20 (5) (b) If any person required under this section to file a deposit report or withholding report ~~fails to file same or~~ files an incomplete or incorrect report, ~~or fails to properly withhold~~ or fails to properly deposit ~~or pay over withheld~~ funds unless it can be shown that such ~~failure or~~ filing or failure was due to good cause and not due to neglect, there shall be added to the tax ~~due~~ 25% of the amount not reported or not withheld, deposited or ~~subsequently discovered or reported~~ paid over. The amount so added shall be assessed, levied and collected in the same manner as additional income taxes, and shall be in addition to any other penalties imposed in this section.

(c) Any amount not deposited, ~~or not paid over to the department~~ within the time required, shall be deemed delinquent and deposit reports ~~and~~ or withholding reports filed after the due date shall be deemed late. Delinquent deposits ~~or payments~~ shall bear interest at the rate of one per cent per month from the date deposits ~~or payments~~ are required under this section until ~~the first day of the month following the month in which~~ the taxes are deposited ~~or paid over~~.

(7) Whenever any person is required to withhold any Wisconsin income tax from an employe, until such amount is deposited with the de-

pository bank prescribed by sub. (4) *or paid over to the department as prescribed by sub. (4m)*, the amount so withheld shall be held to be a special fund in trust for the state. The amount of such fund may be assessed and collected from such person by the department as income taxes are assessed and collected, and such collection shall not abate any penalty imposed ~~under sub. (6)~~.

SECTION 3. 71.26 of the statutes is amended to read:

71.26 For good cause shown upon application by an employer, the department ~~or assessors of incomes~~ may grant an extension of time not exceeding 30 days in which to furnish employes the written statements required by s. 71.10 (8) or to file the copies of such written statements as required by s. 71.10 (8m) or (8n), or in which to file a withholding report as required by s. 71.20 (4) *or (4m)*, but no such extension shall extend the time for deposit with the depository bank *or payment to the department* of amounts required to be deducted and withheld pursuant to s. 71.20.

Approved November 7, 1969.
